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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,632	12/19/2001	Steve Sichuan He	38-21(51837)B	8916
7590	07/28/2006			EXAMINER BAUM, STUART F
Lawrence M. Lavin, Jr. Patent Department, E2NA Monsanto Company 800 N. Lindbergh Boulevard St. Louis, MO 63167			ART UNIT 1638	PAPER NUMBER
DATE MAILED: 07/28/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/024,632	HE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Stuart F. Baum	1638	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 03 May 2006.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 3,4 and 6 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 3,4 and 6 is/are allowed.  
 6) Claim(s) \_\_\_\_\_ is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 12/19/01, 5/6/02 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. <u>7/21/2004</u> .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input checked="" type="checkbox"/> Other: <u>See Continuation Sheet</u> .

Continuation of Attachment(s) 6). Other: Examiner's Amendment and Reasons for Allowance.

**EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.
2. Authorization for this examiner's amendment was given in a telephone interview with Thomas E. Holsten on 7/21/2006.
3. IN THE CLAIMS:
  - 3. (Currently Amended) An isolated nucleic acid molecule comprising a nucleotide sequence, or its complete complement, which [can encode] encodes a polypeptide having [an amino acid sequence that is substantially identical] at least 60% amino acid identity to the sequence of SEQ ID NO: 2 and having two AP2 DNA binding domains.
  4. (Currently Amended) An isolated nucleic acid molecule comprising a nucleotide sequence, or its complete complement, which can hybridize under conditions of 6.0X sodium chloride/sodium citrate (SSC) at about 45<sup>0</sup> C followed by a wash of 0.2 X SSC at 50<sup>0</sup> C for about 20 minutes to a second nucleic acid sequence which [can encode] encodes a polypeptide having the amino acid sequence of SEQ ID NO:2 and wherein the nucleotide sequence encodes a protein having two AP2 domains.-

4. This application is in condition for allowance except for the following formal matters:

Objection is made to the specification for not incorporating SEQ ID NO's when referring to nucleic acid or amino acid sequences. 37 CFR 1.821(d) requires the use of the assigned sequence identifier (e.g. SEQ I.D. NO: X) in all instances where the description or claims of a patent application discuss sequences. In particular, Figure 2 discloses seven amino acid sequences that are not identified by sequence identifier. Amending the Figures or Brief Description of the Drawings to include sequence identifiers for all amino acid sequences will obviate the objection.

5. Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

6. The following is an examiner's statement of reasons for allowance: Applicants disclose amino acid sequences from Arabidopsis, soybean, rice, cotton and corn, that are members of the ANT-like polypeptides that have less than 60% amino acid identity to Applicants' SEQ ID NO:2 and have two AP2 DNA binding domains (Figure 2; page 7 of specification, lines 15-16; pages 8-9, Table 1). In addition, Krizek et al (1999, Developmental Genetics 25(3):224-236; listed in IDS) disclose an Arabidopsis ANT polypeptide that exhibits less than 60% amino acid identity with Applicants' SEQ ID NO:2 and comprises two AP2 DNA binding domains and has the same function as Applicants' SEQ ID NO:2. Support for "at least 60% amino acid identity" in the Examiner's Amendment of claim 3 can be found on page 15, lines 10-13 of the specification.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

7. Claims 3 and 4 are allowable as recited above and claim 6 is allowable.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stuart F. Baum whose telephone number is 571-272-0792. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anne Marie Grunberg can be reached at 571-272-0975. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-1600.



Stuart F. Baum Ph.D.  
Patent Examiner  
Art Unit 1638  
July 21, 2006

STUART F. BAUM, PH.D.  
PATENT EXAMINER